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STATEMENT OF ARGUMENTS IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following listing of clear errors in the Examiner's rejection and his failure to identify essential elements necessary for a *prima facie* basis of rejection is responsive to the Final Rejection mailed January 31, 2007 (Paper No. 20070117).

Each of Applicants' independent claims 1, 19, 32, 35, 38, 40, 41, 43, 44 and 45 recite method step, program logic or apparatus which are common among the independent claims. Various ones of these common elements are missing from the Baker and Davis references and therefore the combination of Baker and Davis cannot render obvious any of these independent claims or claims dependent thereon.

The Examiner is reminded that the Court of Appeals for the Federal Circuit has held that "the PTO has the burden under Section 103 to establish a *prima facie* case of obviousness." *In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). "It can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references."

With respect to the alleged motivation for combining these references, the Examiner has provided no support. In the recent case of *In re Rouffet*, 47 USPQ2d 1453, 1458 (Fed. Cir. 1998), the Court held that "the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed." Nowhere in either of the cited references does there appear to be any recognition of the problem solved by the claimed invention.

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**Error #1. Neither Baker nor Davis teach the claimed
“allocating human users” step, logic or apparatus**

The Examiner alleges that column 4, line 65 through column 5, line 1 supports a disclosure of an “allocating” step. The Examiner is in error, because a review of column 1, lines 38-47 will establish that the only human groups Baker considers are preexisting human groups and, as a result, there can be no allocating step in the Baker method. The burden is on the Examiner to show where this “allocating” step exists in Baker and, as yet, has failed to do so.

**Error #2. The independent claims specify the allocating
step is with respect to “human users” and Baker fails to
disclose this claimed feature**

The Examiner references Baker at column 4, line 65 to column 5, line 1 as allegedly teaching “ID 207/208 is a single id that is common to users belong to that user group.” (Final Rejection, page 3). ID 207/208 identifies two computer terminals in Figure 2. The sentence bridging columns 4 and 5 clarifies that the identification code ID_{207/208} relates to terminals 207 and 208 and requires “when a URL from either user terminal 207 or 208 is received at processor 212, the same listing of associated URLs is accessed.” (Baker, column 5, lines 1-3). Both terminals are either granted or denied access to the same group of URLs. However, as far as meeting the claim requirement of allocating “human users” there is no teaching as noted above. Baker merely teaches providing the same level of access to the two identified terminals. The burden is on the Examiner to show where this allocating “human users” step exists in Baker and, as yet, has failed to do so.

**Error #3. Baker fails to disclose any identification of “a
data access category which is common to members of
that user group”**

Applicants’ claim requires the allocating step in which “all members of each user group having multiple members are associated with a dataset access category which is common to

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members of that user group.” The Examiner alleges that this is disclosed in Baker in columns 4 and 5. However, a review of the cited portions of Baker will indicate that the cited text discusses control of access to data either by restricting data which a terminal can access or by the use of a personal password unique to an individual and not by a dataset access category being common to human members of a user group. The burden is on the Examiner to show where this allocating human user “such that all members of each user group . . . are associated with a dataset access category which is common to members of that user group” step exists in Baker and, as yet, has failed to do so.

Error #4. Neither Baker nor Davis teach providing access “in response to such member providing authenticated evidence of membership of that user group”

Applicants’ independent claims require the “giving access” step to be “in response to such member providing authenticated evidence of membership of that user group.” The Examiner alleges that this is disclosed in Baker, column 4, lines 36-46 and 53-56. However, the line 36-46 disclosure in Baker merely discloses use of a personal password unique to an individual, and the lines 53-56 disclosure merely discloses a user/user terminal of “the identified class,” but how or in what manner this is “identified” has no antecedent basis and is not further explained. Neither of these citation disclose the claimed method step..

Moreover, the Examiner admits on page 4 of the Final Rejection that “Baker does not specifically disclose wherein the evidence of membership of the user group is authenticated evidence.” The Examiner also admits “Baker doesn’t discuss how the identification code is authenticated.” While the Examiner suggests that it is “extremely common and well known in the art,” the Examiner provides no citation to support his contention. Applicants note the

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provisions of MPEP Section 2144.03 and specifically traverses the Examiner's assertion that the subject matter of the above-discussed "giving access" step is "extremely common and well known." The burden is on the Examiner to show where the giving access step is "in response to such member providing authenticated evidence of membership of that user group" and that this is shown in Baker and, as yet, has failed to do so.

Error #5. The Examiner provides no "reason" or "motivation" for combining the Baker and Davis references

In view of the Examiner's admission that Baker does not disclose all features of Applicants' independent claims, the Examiner combines Baker with Davis. However, as noted in *In re Rouffet* above, the Examiner has fails to meet his burden of proof by providing a "reason" or "motivation" for combining the Baker and Davis references. Baker does not rely on or even mention evidence of "allocating" "human users" or any group membership and therefore has no reason to authenticate such user group membership. In fact, there is no motivation to search for authentication of evidence of user group membership, because Baker ignores such user groups. Without some motivation for combination, the Baker/Davis combination and rejections based thereon fail.

Error #6. The Examiner erroneously concludes that Davis discloses the claimed form of authentication, i.e., "authenticated evidence of membership of that user group"

The Examiner contends at the bottom of page 4 that Davis does disclose identification means which comprises "authenticated evidence" citing page 553. However, on page 550, left column, last sentence of section B, Davis specifically teaches that "both parties mutually authenticate." This is authentication of one individual's identity by another individual. This is

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not the claimed authentication of evidence of membership of a user group as claimed in the independent claims. Thus this feature is missing from Davis as well as Baker.

Error #7. The Examiner also errs in concluding that Davis discloses authenticated evidence at page 553 under heading B

The Examiner also contends that Davis discloses authenticated evidence with the use of "certificates" and cites page 553 under heading B. However, the Davis certificate is authentication of one individual's identity and is not authentication of evidence of membership of a user group as required by Applicants' independent claims. Thus, the Examiner's conclusion as to the teachings of the Davis reference is respectfully traversed.

SUMMARY

Thus, with respect to all independent claims and, as a consequence, claims dependent thereon, it is clear that the Baker/Davis combination does not teach all claimed elements. Moreover, there is no reason or motivation to combine these references in the manner suggested by the Examiner. As a result, any one of the above errors negatives a rejection under §103. The existence of the recited seven errors simply confirms the untenable nature of the rejection of the independent claims over the Baker/Davis combination.

As a result of the above, there is simply no support for the rejection of Applicants' independent claims or claims dependent thereon under 35 USC §103. Applicants respectfully request that the Pre-Appeal Panel find that the application is allowed on the existing claims and prosecution on the merits should be closed.